



**DEPARTMENT OF JUSTICE  
Drug Enforcement Administration**

**Larry S. Everhart, M.D.;  
Decision and Order**

On January 14, 2022, a former Acting Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, Government), issued an Order to Show Cause (hereinafter, OSC) to Larry S. Everhart, M.D. (hereinafter, Registrant) of Powell, Ohio. Request for Final Agency Action (hereinafter, RFAA), Exhibit (hereinafter, RFAAX) A (OSC), at 1. The OSC proposed the revocation of Registrant's Certificate of Registration No. AE5735557. *Id.* It alleged that Registrant is "without authority to prescribe controlled substances in the State of Ohio, the state in which [he is] registered with the DEA." *Id.* at 2 (citing 21 U.S.C. § 824(a)(3)).

Specifically, the OSC alleged that on or about July 14, 2021, the State Medical Board of Ohio permanently revoked Registrant's medical license after finding that on numerous occasions, Registrant relied on an unproven diagnostic device to diagnose and treat patients; inappropriately prescribed an anti-parasitic drug and prescribed it in excess of recommended dosages; inappropriately prescribed multiple antibiotics in excess of recommended dosages; and failed to maintain complete and/or legible medical records. *Id.*

The OSC notified Registrant of the right to request a hearing on the allegations or to submit a written statement, while waiving the right to a hearing, the procedures for electing each option, and the consequences for failing to elect either option. *Id.* at 2-3 (citing 21 C.F.R. § 1301.43). The OSC also notified Registrant of the opportunity to submit a corrective action plan. *Id.* at 3 (citing 21 U.S.C. § 824(c)(2)(C)).

**Adequacy of Service**

In a Declaration dated March 4, 2022, a Diversion Investigator (hereinafter, the DI) assigned to the Columbus District Office of the Detroit Field Division stated that on or about

January 20, 2022, she sent a copy of the OSC via certified mail to Registrant's registered address. RFAAX B (DI's Declaration), at 1-2. According to the DI, United States Postal Service (USPS) tracking information indicates that the copy of the OSC was delivered on or about January 24, 2022. *Id.* at 2.

The Government forwarded its RFAA, along with the evidentiary record, to this office on March 15, 2022. According to the Government's RFAA, "[Registrant] has not corresponded or otherwise communicated with DEA regarding the [OSC]." RFAA, at 2. Further, the Government states that, "[m]ore than 30 days have passed since [Registrant] was served with the [OSC] and, therefore, the deadline for requesting a hearing or submitting a written statement of position has passed." *Id.* (citing 21 C.F.R. § 1301.43). The Government requests that "[Registrant's] DEA Certificate of Registration as a practitioner be revoked based on his lack of authority to handle controlled substances in the State of Ohio, the state in which he is registered with DEA." *Id.* at 6.

Based on the DI's Declaration, the Government's written representations, and my review of the record, I find that the Government accomplished service of the OSC on Registrant on or before January 24, 2022. I also find that more than thirty days have now passed since the Government accomplished service of the OSC. Further, based on the DI's Declaration, the Government's written representations, and my review of the record, I find that neither Registrant, nor anyone purporting to represent Registrant, requested a hearing, submitted a written statement while waiving Registrant's right to a hearing, or submitted a corrective action plan. Accordingly, I find that Registrant has waived the right to a hearing and the right to submit a written statement or corrective action plan. 21 C.F.R. § 1301.43(d); 21 U.S.C. § 824(c)(2)(C). I, therefore, issue this Decision and Order based on the record submitted by the Government, which constitutes the entire record before me. 21 C.F.R. § 1301.43(e).

## **FINDINGS OF FACT**

### **Registrant's DEA Registration**

Registrant is the holder of DEA Certificate of Registration No. AE5735557 at the registered address of 3779 Attucks Drive, Powell, Ohio 43065. RFAAX B (DI's Declaration), at 1. Pursuant to this registration, Registrant is authorized to dispense controlled substances in schedules II through V as a practitioner. *Id.* Registrant's registration expires on August 31, 2022. *Id.*

### **The Status of Registrant's State License**

On May 13, 2020, the State Medical Board of Ohio (hereinafter, the Board) notified Registrant that the Board intended to "determine whether or not to limit, revoke, permanently revoke, suspend, refuse to grant or register or renew or reinstate [his] license or certificate to practice medicine and surgery, or to reprimand [him] or place [him] on probation." RFAAX B, Exhibit B-1, at 124-125. According to the Board's letter, from on or about January 24, 2005, to July 24, 2019, Registrant relied on "an unproven electrodermal diagnostic device" to diagnose and treat ten different patients. *Id.* at 124. Regarding these diagnoses, Registrant failed to confirm the results through laboratory testing and/or consultation from a specialist before employing treatment measures. *Id.* The Board's letter also alleged that, in regard to the treatment of the ten patients, Registrant inappropriately prescribed an antiparasitic drug and multiple antibiotics, prescribing the medications in excess of recommended dosages and without appropriately confirming diagnoses. *Id.* Finally, the Board's letter alleged that Registrant's medical records for the ten patients were "incomplete and/or illegible." *Id.* The Board argued, citing to Ohio State law, that Registrant's conduct constituted a "'departure from, or the failure to conform to, minimal standards of care.'" *Id.* The Board also argued, citing to Ohio State law, that Registrant's conduct constituted a "'[f]ailure to maintain minimal standards applicable to the selection or administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease.'" *Id.* at 124-125. On July 14, 2021, the Board issued its Entry of Order permanently revoking Registrant's Ohio medical license and ordering Registrant to pay a fine of \$3,500. *Id.* at 3.

According to Ohio's online records, of which I take official notice, Registrant's medical license is still permanently revoked.<sup>1</sup> [https://elicense.ohio.gov/oh\\_verifylicense](https://elicense.ohio.gov/oh_verifylicense) (last visited date of signature of this Order). Accordingly, I find that Registrant is not currently licensed to practice medicine in Ohio, the state in which he is registered with the DEA.

## DISCUSSION

Pursuant to 21 U.S.C. § 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (hereinafter, CSA) “upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.” With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, M.D.*, 76 Fed. Reg. 71,371 (2011), *pet. for rev. denied*, 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 Fed. Reg. 27,616, 27,617 (1978).

This rule derives from the text of two provisions of the CSA. First, Congress defined the term “practitioner” to mean “a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.” 21 U.S.C. § 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that “[t]he Attorney General shall register practitioners . . . if the applicant is

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<sup>1</sup> Under the Administrative Procedure Act, an agency “may take official notice of facts at any stage in a proceeding – even in the final decision.” United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. § 556(e), “[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.” Accordingly, Registrant may dispute my finding by filing a properly supported motion for reconsideration of finding of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by e-mail to the other party and to Office of the Administrator, Drug Enforcement Administration at [dea.addo.attorneys@dea.usdoj.gov](mailto:dea.addo.attorneys@dea.usdoj.gov).

authorized to dispense . . . controlled substances under the laws of the State in which he practices.” 21 U.S.C. § 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner’s registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper*, 76 Fed. Reg. at 71,371-72; *Sheran Arden Yeates, M.D.*, 71 Fed. Reg. 39,130, 39,131 (2006); *Dominick A. Ricci, M.D.*, 58 Fed. Reg. 51,104, 51,105 (1993); *Bobby Watts, M.D.*, 53 Fed. Reg. 11,919, 11,920 (1988); *Frederick Marsh Blanton*, 43 Fed. Reg. at 27,617.

According to Ohio law, “No person shall knowingly obtain, possess, or use a controlled substance or a controlled substance analog,” except pursuant to a “prescription issued by a licensed health professional authorized to prescribe drugs if the prescription was issued for a legitimate medical purpose.” Ohio Rev. Code Ann. §§ 2925.11(A), (B)(1)(d) (West, current through File 85 of the 134th General Assembly (2021-2022)). Ohio law further states that a “[l]icensed health professional authorized to prescribe drugs” or “prescriber” means “an individual who is authorized by law to prescribe drugs or dangerous drugs or drug therapy related devices in the course of the individual's professional practice.” *Id.* at § 4729.01(I). The definition further provides a limited list of authorized prescribers, the relevant provision of which is “[a] physician authorized under Chapter 4731[] of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.” *Id.* at § 4729.01(I)(5). Additionally, Ohio law permits “[a] licensed health professional authorized to prescribe drugs, if acting in the course of professional practice, in accordance with the laws regulating the professional’s practice” to prescribe or administer schedule II, III, IV, and V controlled substances to patients. *Id.* at § 3719.06(A)(1)(a)-(b).

Here, the undisputed evidence in the record is that Registrant currently lacks authority to practice medicine in Ohio. As already discussed, a physician is authorized by law to prescribe or

administer drugs in Ohio only when authorized to practice medicine and surgery under Ohio law. Thus, because Registrant lacks authority to practice medicine in Ohio and, therefore, is not authorized to handle controlled substances in Ohio, Registrant is not eligible to maintain a DEA registration. Accordingly, I will order that Registrant's DEA registration be revoked.

## **ORDER**

Pursuant to 28 C.F.R. § 0.100(b) and the authority vested in me by 21 U.S.C. § 824(a), I hereby revoke DEA Certificate of Registration No. AE5735557 issued to Larry S. Everhart, M.D. Further, pursuant to 28 C.F.R. § 0.100(b) and the authority vested in me by 21 U.S.C. § 823(f), I hereby deny any pending application of Larry S. Everhart, M.D. to renew or modify this registration, as well as any other pending application of Larry S. Everhart, M.D. for additional registration in Ohio. This Order is effective [insert Date Thirty Days From the Date of Publication in the Federal Register].

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Anne Milgram,  
Administrator.

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